

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GENARO MENDOZA RESENDIZ,)	
)	
Petitioner,)	
)	
v.)	1:11CV398
)	1:08CR366-6
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

BEATY, District Judge.

On May 27, 2014, the Recommendation of United States Magistrate Judge [Doc. #337] was filed and notice was served on the parties pursuant to 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommended that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 ("Motion") [Doc. #287] be granted, based on the Government's concession as to Ground Two of Defendant's Motion,¹ that Petitioner's Judgment [Doc. #252] be vacated, and that Petitioner be resentenced as to Count One of the Indictment. No objections were filed within the time limits prescribed by § 636.

In the absence of objections, this Court reviews the Recommendation only for clear error. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Fed. R. Civ. P. 72 advisory committee's note. The Court has appropriately reviewed the Recommendation. Having done so, the Court finds that no clear error exists and the

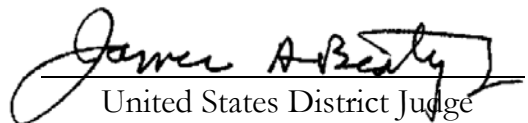
¹ However, the Magistrate Judge recommended that the other grounds for Petitioner's Motion (Grounds One, Three, and Four) should be denied as moot. (Recommendation [Doc. #337], at 4.)

Recommendation should be adopted. The Magistrate Judge's Recommendation [Doc. #337] is therefore affirmed and adopted for the reasons set forth therein.

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [Doc. #287] is hereby GRANTED. IT IS FURTHER ORDERED that Petitioner's Judgment [Doc. #252] is VACATED, and that Petitioner is to be resentenced as to Count One of the Indictment.

IT IS FURTHER ORDERED that Grounds One, Three, and Four of Defendant's Motion are DENIED AS MOOT.

This, the 6th day of August, 2014.


United States District Judge